IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 21ST AUGUST 2007 / 30TH SRAVANA 1929

CRP.No. 1877 of 1997(E)

(AGAINST THE ORDER IN TLB.1148/73 IN THE FILE OF THE TALUK LAND BOARD, S.BATTERY,)

REVN. PETITIONER/ LEGAL REP. OF THE DECEASED 1ST PETITIONER:

1. NHANDAMAKKAL THOMAS, NHANDAMAKKAL HUSE,
PULPALLY P.O. PADICHIRA VILLAGE,
WAYANAD DISTRICT. (DIED)

ADDL. 2. ROSA, D/O. LATE. N.T.THOMAS,
ARATH HOUSE, KABINIGIRI POST, WAYANAD.

3. THOMAS, S/O. LATE N.T.THOMAS
NHANDAMAKKAL HOUSE,
PULPALLY P.O. PADICHIRA VILLAGE, WAYANAD DT.

4. MARY, D/O. LATE N.T.THOMAS,
ELAVANAL HOUSE, CHATHANAKOTHU NADA P.O.
KOZHIKODE DT.

5. JOSE N.T. S/O. LATE N.T.THOMAS,
NHANDAMAKKAL HOUSE, PULPALLY P.O.
PADICHIRA VILLAGE, WAYANAD DISTRICT.

(PETITIONERS 2 TO 5 ARE IMPLEADED AS PER ORDER IN I.A. NO.3524/2006 DATED 6.3.32007)

BY ADV. SRI.T.L.ANANTHASIVAN

RESPONDENTS/RESPONDENTS:

1. GOVERNMENT OF KERALA, REPRESENTED
BY ITS CHIEF SECRETARY, GOVERNEMNT OF KERALA,
TRIVANDRUM.

2. THE CHAIRMAN, TALUK LAND BOARD,
SULTHAN BATTERY.

3. THE TAHSILDAR, SULTAN BATTERY.

BY GOVT. PLEADER SRI.SHYSON P.MANGUZHA

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 21/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CMP NO.3760/1997 IN CRP 1877/1997

DISMISSED

21.8.2007 SD/- PIUS C.KURIAKOSE, JUDGE.

/TRUE COPY/

P.A. TO JUDGE.

PIUS C. KURIAKOSE, J.

C.R.P. NO.1877 of 1997

Dated this the 21st day of August , 2007

O R D E R

In this Civil Revision Petition under Section 103 of the Kerala Land Board Act the petitioner/ declarant impugns the order of the Taluk Land Board dated 28.8.1997 issued when the case was reopened under section 85 (9) of KLR Act directing the petitioner to surrender an extent of 4.50 acres of land in Survey No.358/IAIAIA of Padichira village in Sulthan Battery. The property in question is included in the account of Smt. Mariyam the petitioner's wife. In the original proceeding that property was also sought to be included in the account of the declarant. The declarant contended that his wife Smt.Mariyam does not have an actual possession of the property. He contended that person by name Sri.Poozhipurath Varkey had trespassed his wife and that Sri. Varkey has obtained certificate of purchase for 10.70 acres of land as per SMC No.4346/76. It was virtually accepting the above contention that the Taluk Land Board in ts previous order dated 18.10.1985 ordered surrender of 4.95 acres of land by the declarant. In the proceeding after reopening it is seen that the Land Board is ignoring the contention that neither the

declarant nor his wife Smt.Mariyam has having possession of 4.50 acres and that it is Sri.Varkey who is having an actual possession on the reason that the basic tax is being paid by Smt. Mariam. I am of the view that in this case where it was contended that Sri. Varkey is in possession and Sri. Varkey himself contended before the Land Board in previous proceeding that he is in possession on the strength of an lean given by the Pulpally Devaswam and he supported in that contention by a certificate of purchase . if as a mater of fact the property in question (4.50 acres) is under the possession of Sri.Varkey, then it will not be chooses to include that property in the account of the declarant.

2. I set aside the impugned order and direct the Land Board to take a fresh decision after issuing notice to Sri.varkey. The land Board will depute the authorised officer for getting a report as to who is in actual physical possession of the property having an extent of 4.50 acres. The Land Board will enter specific finding as to who is in possession of the controversial item and thereafter only fresh orders will be passed after hearing all the concerned parties.

PIUS C. KURIAKOSE,
JUDGE.

Dpk

PIUS C.KURIAKOSE, J.

C.R.P. NO.1877 OF 1997 E

O R D E R

21ST AUGUST 2007